SOUTHERN DISTRICT OF MISSISSIPPI
FILED
OCT -3 2014
ARTHUR JOHNSTON
BY ________ DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

MAUSHUNIA JOHNSON)
)
Plaintiff,)
)
ERIC H. HOLDER, JR.,) **CA No.** 3:14cv772 CWR-FKB
ATTORNEY GENERAL,)
DEPARTMENT OF JUSTICE)
FEDERAL BUREAU OF PRISONS)
)
Defendant.)

JURY TRIAL DEMANDED

COMPLAINT

1. This is an action to recover actual and punitive damages for reprisal discrimination, hostile work environment, sexual discrimination, and age discrimination. The following facts support this action:

PARTIES

2. Plaintiff, MAUSHUNIA JOHNSON, is an adult resident citizen of Mississippi, residing at P.O. Box 47, Sharon, Mississippi 39163.

3. Defendant, Eric H Holder, Attorney of General, Department of Justice, Federal Bureau of Prisons. The Attorney General can be served at U.S. Department of Justice 950 Pennsylvania Avenue, NW Washington, DC 20530-0001. The Federal Bureau of Prisons can be served at 320 First St., NW, Washington, DC 20534.

JURISDICTION

4. This Court has federal question jurisdiction under 28 U.S.C. §1331 and civil rights jurisdiction under 28 U.S.C.§1343 for a cause of action arising under Title VII of the Civil Rights Act of 1964. This action is authorized by 42 U.S.C. § 1983.

5. Venue is proper in this District and Division under 28 U.S.C. §§ 1343, 2201, and 2202 in that all events complained of herein occurred within this District and Division and, on information and belief, all parties reside or exist in this District.

FACTS

6. Maushunia Johnson is a forty year old female that is a cook supervisor at the Food Service Department at Federal Correctional Complex at Yazoo City, Mississippi. Ms. Johnson's first-line supervisor was Richard Everest and Sonia Johnson, who are Assistant Food Service Administrators, and her second line supervisor was William Woods, who is a Food Service Administrator.

7. Ms. Johnson's supervisors were aware of her sex, age, and prior EEO activity. Mr. Everett and Mr. Woods assigned Ms. Johnson the "new duties of the responsibility of putting out and retrieving the serving tools in a manner that was not considered within Agency policy."

8. On June 26, 2011, Ms. Johnson complained to Mr. Woods about his new policy regarding the dining room officer being responsible for putting out the serving tools. In the past, the cooks were responsible for the service tools due to the fact that they are the only ones with access to the storage and tool room. Mr. Woods initially admitted that Ms. Johnson

was correct on the situation.

9. On Monday, June 27, 2011, Mr. Woods informed Ms. Johnson that he did indeed change the policy. Ms. Johnson communicated to Mr. Woods that she was "uncomfortable" with this new directive, because it violated the Agency's policy. Ms. Johnson further articulated that the reason behind her objection was that "if [she] were to be responsible for putting out serving tools, [she] would not have knowledge of what the cook actually took out or what the inmate received from the cook with regards to the tools. Either of them could just give [her] whatever they wanted . . . and [she] would have no way of knowing whether [she] received all the tools that were" issued.

10. Mr. Woods informed Ms. Johnson that management was in the process of making some policy changes. While management does have the opportunity to make changes to the policy annually, it must be through union negotiations. Additionally, Ms. Johnson explained to Mr. Woods that Mr. Leonard Moore, a 29-year old male cook supervisor, had indicated he shared Ms. Johnson's concerns, and management did not force him to comply with the new policy. Mr. Woods confirmed the discriminatory application of the new policy by remaining silent.

11. After opposing the new unlawful policy of Mr. Woods, Ms. Johnson began receiving greater harassment and being subjected to unusual close supervision. Mr. Woods even went to the extreme of asking prisoners to attempt to discover some harmful information on Ms. Johnson. Mr. Woods and Ms. Melissa Robinson, the Associate Warden, met with Ms. Johnson to inform her that the dining room officer would still be responsible for the tools, but admitted, through their actions of creating a new form, that her concern for lack of accountability was legitimate. However, this "new form" was never even mentioned

to some of the staff, much less required.

12. On July 29, Ms. Johnson was notified by email that some items had been added to her electronic personnel file. However, none of these issues had been discussed with Ms. Johnson, which violated Agency's policies and procedures. Mr. Everest's log entries regarding Ms. Johnson's job performance states "Ms. Johnson performs duties in a manner that is consistent with the safe and orderly running of the institution.

13. She conducts shakes downs of her area and inmates to restrict the flow of contraband. She has had minor incidents pertaining to securing of Class b tools." Another log of Mr. Everest created on the same date, asserts that Ms. Johnson "has had minor infractions with staff and supervisors over specific tasks in the department." Violating agency's policy, Ms. Johnson was never made aware of these incidents.

14. Ms. Johnson was not even at work on June 30, 2011. Prior to this incident, Ms. Johnson's overall rating was "outstanding," but was dropped to "successful," because of this incident.

15. In 2009, Ms. Johnson injured her back and was placed on light work detail by her physician. Ms. Johnson returned to full duty in March of 2009 until 2011. On August 26, 2011, Ms. Johnson once again had back issues and once again her physician recommended placing her on light work duty. First, Ms. Johnson was placed in a temporary duty monitoring inmate phone calls.

16. A week later, Ms. Johnson was transferred back to the food service department in answering telephone and completing paperwork. This transfer concerned her, because she would be once again under the supervision of Mr. Woods and Mr. Everest. Mr. Woods and Mr. Everest continued their harassment by not issuing any keys to Ms.

Johnson, so she was basically reduced to the same position as a prisoner, having to ask permission to go to lunch or even to the restroom.

17. This refusal of giving her a set of keys placed Ms. Johnson in "imminent danger" and violated her right under Bureau of Prisons policy to secure herself in a "Safe Haven" or "Safe Harbor." Ms. Johnson was without a key to her office from August 31 to September 20th.

18. These actions by Mr. Woods and Mr. Everest have harmed Ms. Johnson emotionally to such a degree that she has to see a primary physician and a therapist. Ms. Johnson feels she is in an unsafe work environment, due to Mr. Johnson's and Mr. Everest's actions.

19. On February, 2011, Ms. Johnson applied for the position of case manager. On April 23, 2011, Ms. Johnson was notified by that she was on the list of "best qualified" candidates for a promotion to case manager. On August 8, 2011, Ms. Johnson learned that Kalaina Connors was selected for the position. Ms. Connors' selection violated the historical practice of hiring the best qualified candidate with the most seniority.

20. Leonard Moore is a twenty-nine year old Cook Supervisor at the Food Service Department at the Federal Corrections Center at Yazoo City, Mississippi. Like Ms. Johnson, he is also supervised by Mr. Richard Everest and Mr. William Woods. Mr. Moore stated that Mr. Woods did not implement the new policy "until [Ms. Johnson] actually had that post . . . to kind of pick at her . . ." Mr. Woods had it out for Ms. Johnson. Mr. Moore never followed the new tool policy and was never disciplined for it. In reality, no other employee follows the new form.

21. Mr. Damien Nicholson is a Cook Supervisor at FCC Yazoo City. Mr. Woods and Mr. Everest are his supervisors also. Mr. Nicholson notes that no tool policy existed at first.

He observed Mr. Woods indicate to Ms. Johnson that she embezzled "four bags of powered cheese." Mr. Woods also would scream on a daily basis that "[t]his is my house. We'll do things my way. You don't have to work here." Mr. Woods was going out of his way to let Ms. Johnson know who was in charge.

Claims for Relief
Count One
Reprisal Discrimination Claim

22. The Plaintiff has been discriminated by the Defendant due to her exercising her first amendment right by the facts referenced above and incorporated here fully.

23. For a Reprisal Discrimination Claim, the Complainant must show "(1) participation in a protected activity known to the defendant[s]; (2) an employment action disadvantaging the plaintiff; and (3) a causal connection between the protected activity and the adverse employment action." *Feingold v. New York*, 366 F.3d 138, 156 (2d Cir.2004) (internal quotations omitted); see also *Kessler v. Westchester County Dep't. of Soc. Servs.*, 461 F.3d 199, 205-06 (2d Cir.2006).

Count Two
Hostile Work Environment Claim

24. The Plaintiff was subject to a hostile work environment due to her exercising her first amendment rights, her sex, and/or her age established by the facts referenced above and incorporated here fully.

25. Ordinarily, to establish a prima facie case of harassment alleging a hostile work environment claim under Title VII, an employee must prove: (1) that she belongs to a protected class; (2) she was subject to unwelcome harassment; (3) the harassment complained of was based on her protected characteristic; (4) the harassment affected a term, condition, or privilege of employment; and (5) the employer knew or should have

known of the harassment and failed to take prompt remedial action. *Ramsey v. Henderson*, 286 F.3d 264, 268 (5th Cir.2002). In *Faragher v. City of Boca Raton*, 524 U.S. 775, 118 S.Ct. 2275, 141 L.Ed.2d 662 (1998), and *Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742, 118 S.Ct. 2257, 141 L.Ed.2d 633 (1998), the Supreme Court modified this test with respect to cases in which the alleged harasser is a supervisor with immediate or higher authority over the harassed employee. *Celestine v. Petroleos de Venezuella SA*, 266 F.3d 343, 353–54 (C.A.5 (La.),2001). In such cases, the employee need only meet the first four elements of the test. See *id.*

Count Three
Sex Discrimination Claim

26. The Plaintiff was discriminated due to her sex by the Defendant by the facts referenced above and incorporated herein fully.

27. A Complainant must first establish a prima facie case of discrimination by showing (1) membership in a protected class and (2) an adverse employment action (3) that took place under circumstances giving rise to an inference of discrimination. *EEOC v. PVNF, L.L.C.*, 487 F.3d 790, 800 (10th Cir.2007). If a plaintiff can establish a prima facie case, the burden shifts to the employer to assert a legitimate nondiscriminatory reason for its actions. If it can do so, the burden shifts back to the plaintiff to introduce evidence that the stated nondiscriminatory reason is merely a pretext for discriminatory intent. *Simmons v. Sykes Enters.*, 647 F.3d 943, 947 (10th Cir.2011).

Count Four
Age Discrimination Claim

28. The Plaintiff was discriminated by her age by the Defendant by the facts referenced above and incorporated herein fully.

29. "The three-step framework developed in *McDonnell Douglas Corp. v. Green* and modified by *Texas Dep't of Community Affairs v. Burdine* guides the analysis of age discrimination claims based upon circumstantial evidence." *Provenzano v. LCI Holdings, Inc,* 663 F.3d 806, 811–12 (citations omitted). "In the first step, the employee carries the initial burden of establishing a prima facie case of age discrimination; if the employee meets this burden, the second step requires the employer to respond by articulating some legitimate, nondiscriminatory reason for the adverse employment action at issue." Id. at 812 (citing *McDonnell Douglas*, 411 U.S. 792, 802, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973)). "Third, assuming such a response is made, the employee then bears the burden of rebutting this proffered reason by proving that it was pretext designed to mask discrimination." *Id*. (citing *McDonnell Douglas*, 411 U.S. at 804, 93 S.Ct. 1817). "At all times, the ultimate burden of persuasion remains on the plaintiff to demonstrate that age was the 'but-for' cause of their employer's adverse action." Id. (citing *Burdine*, 450 U.S. 248, 253, 101 S.Ct. 1089, 67 L.Ed.2d 207 (1981)).

Prayer for Relief

30. Plaintiff requests actual and punitive damages against the Defendant for the above referenced claims in an amount to be determined by a jury, for removal of false/derogatory e-performance log entries from her personnel file, priority placement in the next available Case Manager position at FCC Yazoo City Mississippi, and for reasonable attorneys' fees, costs and expenses.

Dated this 30th day of September, 2014.

Respectfully submitted,

By:______________________________

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